

Remarks on TRAI's recommendations on Mobile TV

Dated: 14.01.10

	Summary of TRAI Recommendation	Views of the Government
5.1	<u>TECHNOLOGY</u>	
5.1.1	The chosen technology should be digital.	Acceptable
5.1.2	The choice of technology should be left to the service provider with the condition that the technology to be deployed for providing mobile television should be based on standards issued by International Telecommunication Union (ITU), Telecom Engineering Centre of India (TEC) or any other International Standards Organization/ body such as the European Telecommunications Standards Institute (ETSI) or any other standardization organization/ body specified by the Government of India.	Acceptable
5.1.3	The chosen technology should be a proven one. For this purpose, any digital technology having been used for a global customer base of fifty thousand or more for a continuous period of one year to be reckoned from the date of commercial launch anywhere in the world, should be permissible for use regardless of its changed versions. A certificate from the manufacturers of mobile television equipment about satisfactory working for a global customer base of fifty thousand or more over the period of one year from the date of commercial launch should be treated as established technology. This certificate from the manufacturer should be	Acceptable

	accompanied by certificate(s) from the service providers deploying the technology.	
5.1.4	In case the handset is provided by the licensee, it should be ensured that if the subscribers desire to migrate to any other licensee using the same technology and standards, they should be able to migrate without changing the handsets.	Acceptable.
5.1.5	Licenses for the terrestrial transmission route only should be offered for the time being.	Acceptable
5.2	<u>ALLOCATION OF SPECTRUM</u>	
5.2.1	The Ministry of Information & Broadcasting should co-ordinate with the Department of Space and Department of Telecom regarding availability of satellite capacity and frequency for satellite based mobile television services. As and when such satellite capacity is available and if the Government intends to issue such licenses, then the matter may be referred again to the Authority for its recommendations u/s 11(1)(a)(i) and (ii) of the Telecom Regulatory Authority of India Act, 1997 on the licensing framework for satellite based mobile television service.	Acceptable. Matter also separately taken up with WPC/DoT.
5.2.2	Earmarking of carriers in the UHF Band V (from 585 MHz – 806 MHz) for terrestrial mode of mobile television transmission has been recommended.	<u>Acceptable.</u> Adequate slots may need to be reserved in Band V, for Mobile terrestrial TV services by DD keeping in view its plan to expand mobile service to major towns and nationwide

		<p>coverage.</p> <p>The matter was taken up with DoT. DoT has incorporated following footnote (IND 37) in NFAP-2008:</p> <p>“In the context of frequency band 585-806 MHz, bearing in mind that the band is predominantly for broadcasting services which include mobile TV, requirements of IMT and/or Broadband Wireless Access (BWA) subject to availability of spectrum in the frequency band 696-806 MHz may be considered for coordination on case by case basis, as appropriate.”</p> <p>It has also been mentioned that besides above, DD being a user of the band 585-806 MHz a detailed plan of the spectrum usage for the existing allocation as well as the future digitalization plan for digital transmission and mobile Television has been invited from DD.</p> <p>The Ministry is of the view that the needs of other services like IMT and BWA can be considered only after the requirements of Digital Terrestrial Television (also under consideration) and mobile TV are fully met.</p>
5.2.3	A detailed exercise for earmarking of specific frequency bands may be carried out by the Ministry of Information & Broadcasting in consultation with Wireless Planning and Co-ordination wing of Department of Telecommunications for terrestrial mode of transmission. Similar exercise may be taken	Matter has already been taken up with WPC/DOT

	up involving Department of Space also in regard to specific earmarking of suitable bandwidth within the shared band (2520-2670 MHz) for mobile television transmission using satellite transmission.	
5.2.4	Apart from Doordarshan, private operators may be assigned at least 1 slot of 8 MHz each for mobile TV operation using terrestrial systems.	Acceptable
5.2.5	Sharing of terrestrial transmission infrastructure of Doordarshan should be permitted on mutual agreement basis in a non-discriminatory manner.	Acceptable.
5.2.6	Wherever a mobile television service provider has installed its own infrastructure, it should be made available for sharing with other such service providers. For this purpose the mobile television service licensee having its own transmission infrastructure will make available a Reference Co-location Offer for other mobile television service providers on non-discriminatory basis. Such Reference Co-location Offers shall be subject to the approval of the Telecom Regulatory Authority of India.	Acceptable
5.2.7	The licenses for mobile television services (for terrestrial systems) should be granted through a Closed Tender System on the basis of One Time Entry Fees (OTEF) quoted by the bidders and the reserve OTEF for a particular license area	Acceptable.

	should be 50% of the highest financial bid submitted for that particular license area.	
5.2.8	Every applicant and its related entities should be allowed to bid for only one license per service area in the first phase of mobile television licensing.	Agreeable. TRAI has not made any recommendation on whether there should be a limit on National Ownership of channels by a single entity. TRAI in its recommendations on Media ownership has stated that its recommendations on mobile TV are adequate for the time being, However, considering that the number of licenses per license area will be limited we may consider an overall percentage ceiling on the number of permissions per entity on the lines of FM radio to prevent monopolization .
5.2.9	Allocation of spectrum to mobile television licensees should be automatic for successful bidders and should not require any further selection process. Such licensees should be required to pay the usual spectrum usage charges, as stipulated by the WPC in consultation with the Ministry of Information & Broadcasting.	Agreeable
5.2.10	Grant of mobile television license should entitle a licensee for allocation of 8 MHz spectrum only for terrestrial transmission, irrespective of technology and standards used.	Agreeable
5.2.11	The Ministry of Information & Broadcasting should seek further recommendations of the Authority for the next phase of expansion of mobile television service in the country, i.e. allocation of additional carrier to already licensed mobile TV service providers or induction of new mobile TV service providers.	Agreeable

5.2.12	A mobile TV license may be made mandatory for any telecom licensees including UASL/ CMTS licensees, if such licensees wish to use broadcasting technologies for offering mobile television services. For this purpose, any telecom licensees (UASL/ CMTS or any other licensees) satisfying eligibility conditions given in Chapter 4 would be permitted to participate in the bidding process, like any other eligible entity.	Requires consideration of wider issues relating to a level playing field between telecom service providers and broadcasters.
5.3	<u>LICENSING ISSUES</u>	
5.3.1	The detailed methodology for grant of license through Closed Tender System on the basis of One Time Entry Fees (OTEF) quoted by the bidders should be broadly based on the bidding process followed for licensing (Phase-II) of Private FM Radio stations. However, the reserve OTEF for a particular license area should be 50% of the highest financial bid submitted for that particular license area.	Acceptable
5.3.2	The Ministry of Information & Broadcasting should consult with the Wireless Planning and Co-ordination wing of Department of Telecommunications with regard to identification of specific frequency bands to be made available to mobile television licensees before calling for the bids. The information regarding specific frequency bands to be allocated to mobile television licensees should be incorporated in the tender documents.	Agreeable

5.3.3	A state should be the license area for a mobile television terrestrial service license.	<p>Agreeable</p> <p>PB has in its comments has mentioned that DD has plans for the present to start mobile terrestrial TV services in cities where it has existing infrastructure that can be utilized for mobile services. Later the services will be expanded. Thus while finalizing the number of service providers per city within the spectrum available this requirement of PB will also have to be factored in, in consultation with WPC.</p>
5.3.4	Some of the smaller states can be combined to form an appropriate license area in order to enable financially and operationally viable model.	Agreeable. TRAI is requested to suggest which States can be clubbed.
5.3.5	<p>The general disqualifications which have been adopted for Private FM Radio may be used for mobile television service also. The disqualifications are:-</p> <ul style="list-style-type: none"> (a) Companies not incorporated in India; (b) Any company controlled by a person convicted of an offence involving moral turpitude or declared as insolvent or applied for being declared insolvent; (c) A company which is an associate of or controlled by a Trust, Society or Non Profit Organization; (d) A company controlled by or associated with a religious body; (e) A company controlled by or associated with a political body; (f) Any company which is functioning as an advertising agency or is an associate of an advertising agency or is 	Agreeable

	<p>controlled by an advertising agency or person associated with an advertising agency;</p> <p>(g) Subsidiary company of any applicant in the same license area;</p> <p>(h) Holding company of any applicant in the same license area;</p> <p>(i) Companies with the Same Management within a license area;</p> <p>(j) More than one Inter-Connected Undertaking at the same license area;</p> <p>(k) A company that has been debarred from taking part in the bidding process or its associate company with the same management.</p>	
5.3.6	<p>Minimum net worth requirement of Rs. 3 Crores for each service area in terrestrial mobile television licenses should be laid down for being eligible to participate in the licensing process.</p>	Agreeable
5.3.7	<p>The composite foreign investment limit including FDI of 74% for mobile television service has been recommended by the Authority while reiterating its earlier recommendation for a complete review of the FDI policy relating to carriage aspects of electronic media so that it is consistent across all sectors. Within this limit, foreign investments upto 49% may be permitted under the automatic route, beyond which FIPB approval will be required.</p>	Agreeable
5.3.8	<p>The tenure of mobile television licenses should be for 10 years.</p>	The recommendation wrt tenure of 10 yrs is acceptable.

	<p>The tenure of the license should be automatically extended for a further period of 10 years at the option of the licensee with payment of 100% of One Time Entry Fee (OTEF) paid by the latest licensee to acquire the mobile television license for that service area. If no such license has been granted for that service area after issue of a license to the licensee, then the licensee should be required to pay 100% of One Time Entry Fee (OTEF) paid at the time of acquiring the license. For the purpose of renewal, the licensees should be required to make an application to the Ministry of Information & Broadcasting at least six months in advance from the due date of expiry of the original license.</p>	<p>However renewing it for a further period of 10 yrs by taking same OTEF as was taken 10yrs back or even the latest OTEF for that state may not be in the interest of the Government. A view may be taken subsequently as and when the need arises and the Policy for renewal notified.</p>
5.3.9	<p>The Licensee should not either directly or indirectly assign or transfer its rights under the license in any manner to any other party except with prior approval of the Ministry of Information & Broadcasting.</p>	<p>Agreeable. However to prevent speculative bidding and ensure that players really interested in operating the services themselves take part in the bidding process, we may consider a lockin period before which the license cannot be transferred or the shareholding of the majority shareholders/promoters cannot be reduced below 51%.</p>
5.3.10	<p>The license fee should be based on revenue sharing principle for mobile television service license.</p>	<p>Agreeable</p>
5.3.11	<p>The license fee should be charged @ 4% of Gross Revenue for each year or @ 10% of the Reserve One Time Entry Fee limit for the concerned license area, whichever is higher. The license fee should be payable in advance for every quarter (on the basis of 10% of Reserve OTEF for the first year and on the basis of 4% of gross revenue of the previous year or 10% of</p>	<p>Mobile TV as yet is an unexplored area as far as Indian market is concerned. Moreover going by the trend worldwide the mobile services are not likely to generate enough revenues either subscription or advertisement based. Since the reserve OTEF is kept as 50% of the Highest bid, then the fixed bench mark i.e. 10% of the reserve OTEF for determination of the</p>

	reserve OTEF, whichever is higher from the second year onwards).	mark i.e. 10% of the reserve OTEF for determination of the annual license fee becomes very high and the entire purpose of prescribing a revenue sharing regime may get defeated. Accordingly we may charge the license fee as 4% of the Gross Revenue or 5% of the reserve OTEF, whichever is higher.
5.3.12	For the purpose of license fee and other levies, the UASL/ CMTS licensees (including Mahanagar Telephone Nigam Ltd. and Bharat Sanchar Nigam Ltd.) providing mobile television services using their existing network and spectrum will have to pay all levies and fees required to be paid for offering any service permitted under the said license.	Agreeable
5.3.13	In cases of terrestrial transmission mode, the licensee should be required to discharge the roll out obligations at the most in two phases. In the first phase, the licensee must commence the mobile television transmission in at least one city having a population of more than one million or the city with the largest population (as per 2001 census) within the license area within eighteen months from the date of allocation of spectrum. The licensee would be required to pay liquidated damages in case of any delay in commencement of mobile television service in the first phase mentioned above. Further, the second phase of roll out obligations would require all the cities having a population of more than one million within the license area to be covered within a period of four years from the date of allocation of spectrum.	<p>Requirement of discharging Roll out obligations in two phases needs to be provided.</p> <p>However the Roll out obligations for the first Phase may be modified to say ‘...in at least one city having a population of more than one million or the city with the largest population (as per 2001 census) or the State capital or administrative capital of UT or any State capital or administrative capital of a UT (in case the license area is a group of States/UTs) within the license area...’</p> <p>The Roll Out obligations for the second Phase should not only require all the cities having a population of more than one million to be covered but also require the coverage of all the State Capitals and administrative Capitals of UTs and the City with the highest population within the license area</p>

		The recommendations are silent on how the mobile TV services in cities with a lesser population and rural areas are proposed to be covered . Will it be the responsibility of the same licensee, if so, should a roll out obligation be prescribed for the same. TRAI is requested to provide its considered views on this aspect also.
5.3.14	The roll out obligations should be secured through a Performance Bank Guarantee. Compliance with the roll out obligations should be monitored by the Licensor.	Agreeable
5.3.15	The licensees should be required to pay liquidated damages @ 1% of the Performance Bank Guarantee for delay of each week or part of the week in commencement of the mobile television service beyond the first eighteen months, but within a period of two and a half years after the date of allocation of spectrum, subject to a maximum of 50% of the Performance Bank Guarantee.	Agreeable
5.3.16	The liquidated damages should be paid by the mobile television licensee upto the date of commencement of the service for the delayed period beyond eighteen months. The facility of commencement of services on payment of liquidated damages is available only upto two and a half years from the date of allocation of spectrum. Where a mobile television licensee is unable to meet the roll out obligation even in two and a half years from the date of allocation of spectrum, the entire Performance Bank Guarantee should be forfeited. Simultaneously, the Government should proceed to cancel the	Agreeable

	mobile television service license issued to such a licensee including surrender of spectrum and begin the process of fresh allocation of license.	
5.3.17	<p>Once a licensee commences the mobile television service (maximum within a period of two and a half years from the date of allocation of spectrum), 50% of the Performance Bank Guarantee should be returned after receiving payments towards the liquidated damages, if any. The balance 50% of Performance Bank Guarantee should be retained to ensure compliance with the second phase of roll out obligations, namely, covering all the cities having a population of more than one million in the license area within a period of four years from the date of allocation of spectrum. If a mobile television licensee holding a license for a terrestrial system is unable to roll out mobile television services in all the cities in the license area which have a population of more than one million (as per 2001 census) within four years from the date of allocation of spectrum, then the available Performance Bank Guarantee (being equal to 50% of the original Performance Bank Guarantee) should be forfeited. In addition, the license area and spectrum allocation to such a licensee should be restricted to the cities within the license area where mobile television services have been rolled out by the licensee within the said period of four years as communicated to the Ministry of Information & Broadcasting. For the remaining part of the license area, the Government will be at liberty to issue a fresh license for which separate recommendations may be sought from the Authority at appropriate time, and the spectrum not utilized</p>	Agreeable

	by the licensee may be re-allocated to ensure that mobile television service is available in all the cities in the license area which have a population of more than one million (as per 2001 census).	
5.3.18	The mobile television licensees having statewide licenses (for terrestrial systems) should be required to furnish a Performance Bank Guarantee of Rs. 2 Crores for each license area.	Agreeable
5.3.19	Initially, the Financial Bank Guarantee should be for an amount of Rs. 2 Crores for mobile television licensees having statewide licenses (for terrestrial systems) for each license area. Subsequently, from the second year onwards, the Financial Bank Guarantee should be revised to the estimated sum payable as license fee for two quarters and other dues not otherwise securitized.	Agreeable
5.3.20	Any mobile television licensee should not allow any broadcasting company or group of broadcasting companies to collectively hold or own more than 20% of the total paid up equity in its company at any time during the License period. Simultaneously, the mobile television licensee should not hold or own more than 20% equity share in a broadcasting company. Further, any entity or person (other than a financial institution) holding more than 20% equity in a mobile television license should not hold more than 20% equity in any other broadcasting company or broadcasting companies and	While Broadcasting its own channels a mobile TV service provider becomes a broadcaster. Thus there is an inconsistency in this recommendation which needs to be reconciled. <u>The terms ‘Broadcasting’ and ‘Broadcasting Company’ will need to be specifically defined.</u> <u>While determining the shareholding of a Company or entity or person both its direct and indirect shareholding should be taken into account. The principle and methodology to determine the level of indirect holding shall be the same as</u>

	<p>vice-versa. However, there would not be any restriction on equity holdings between a mobile television licensee and a DTH licensee or a HITS licensee or a MSO/cable operator company.</p>	<p><u>determine the level of indirect holding shall be the same as has been adopted in Press Note 2 of 2009 dated 13.2.09 of the Department of Industrial Policy and Promotion under the Ministry of Commerce and Industry for determination of indirect foreign investment.</u></p> <p>Also while cross holdings are provided between Broadcasters and Mobile TV service providers no cross holdings are provided between Telecom operators becoming mobile TV service providers through the broadcast route. TRAI to examine this issue again as to whether such a stipulation provides a level playing field between the Broadcasters and Telecom operators.</p>
5.3.21	<p>(i) In regard to transmission of channels from broadcasters who have received up-linking/ down-linking permission from the Government of India (Ministry of Information and Broadcasting), such channels will be transmitted by mobile TV licensees in exactly the same form (unaltered). In such cases, the responsibility to ensure that content is in accordance with the extant laws, rules, regulations etc shall be that of the broadcaster and the mobile TV licensee will not be held responsible.</p> <p>(ii) In case of contents other than above stated TV channels from broadcasters, such mobile TV licensee shall be responsible for observing program code and advertisement code and such program code and advertisement code shall be the same as provided in Cable Television Network (Regulation) Act 1995 and Rules made thereunder. In addition to this, such licensees will also be bound by various Acts, instructions, directions, guidelines</p>	<p>PB in its comments has observed that permitted satellite TV channels may require repackaging to suit mobile TV service. So the issues in this regard would need to be addressed accordingly.</p> <p>Mobile TV service provider will also be required to develop content specifically for provisioning on the small screen of Mobile TV alongwith re-transmission of the traditional broadcast channel. Since the attention span and the available time with the subscriber to view content on mobile is limited, there may be little scope for conventional advertising. New models may have to be developed for generation of advertisement revenue on the services. Interactivity and personalization will be the key distinguish factor from the linear broadcast model. Mobile TV services also allow subscribers to upload content from their mobile network. Various aspects of handling such a user generated content will</p>

	<p>issued by the Government from time to time to regulate the content.</p> <p>(iii) The mobile TV licensees should carry only those news channels which are permitted by the Ministry of Information & Broadcasting.</p>	<p>also have to be worked out. A repackaged channel can become an altogether different channel with different advertisements even though it may be provided by the same broadcaster. A repackaged channel thus being a different channel a view can be taken that the responsibility of content carried on such channel will be squarely that of the mobile TV service provider.</p> <p>However such a repackaging wrt NCA Satellite TV channels will not be possible since the mobile TV licensee is being required to carry only those news channels which are permitted by the Ministry of Information & Broadcasting.</p> <p>In all likelihood the majority of the content on mobile TV will be of a very different and altered nature and will be localized to the service area and cannot be monitored centrally. It needs to be deliberated as to what mechanism needs to be developed and what systems created to be able to monitor such content on a regular basis.</p>
5.3.22	<p>The telecom licenses should be amended in the following manner to require the UASL/ CMTS licensees (including Mahanagar Telephone Nigam Ltd. and Bharat Sanchar Nigam Ltd.) providing mobile television services using their existing network and spectrum:- (a) Such UASL/ CMTS licensees shall report the commencement of their mobile television services to the Ministry of Information & Broadcasting.</p> <p>(b) Such UASL/ CMTS licensees shall transmit only such channels in exactly same form (unaltered) for which broadcasters have received up-linking/down-linking permission from Government of India (Ministry of Information</p>	Agreeable

	<p>and Broadcasting). In such cases, the responsibility to ensure that content is in accordance with the extant laws, rules, regulations etc shall be that of the broadcaster and telecom licensee will not be held responsible.</p> <p>(c) In case of content other than TV Channels from broadcasters, such telecom licensee shall be responsible for observing program code and advertisement code and such program code and advertisement code shall be the same as provided in Cable Television Network (Regulation) Act 1995 and Rules made thereunder. In addition to this, such licensees will also be bound by various Acts, instructions, directions, guidelines issued by the Government from time to time to regulate the content.</p>	
5.3.23	<p>The UASL/ CMTS licensees (including Mahanagar Telephone Nigam Ltd. and Bharat Sanchar Nigam Ltd.) providing mobile TV service as part of UASL/ CMTS license should carry only those news channels which are permitted by the Ministry of Information & Broadcasting.</p>	Agreeable
5.3.24	<p>Any violation of prevailing Acts/ Rules/ guidelines relating to content by UASL/ CMTS licensees (including Mahanagar Telephone Nigam Ltd. and Bharat Sanchar Nigam Ltd.) providing mobile TV service as part of UASL/ CMTS license shall be reported to DoT by Ministry of Information & Broadcasting. The decision of the Ministry of Information & Broadcasting regarding violation of the law/ direction/ guidelines in respect to content shall be final and DOT will take further follow up action in time bound manner.</p>	Agreeable